

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JERRY L. BEATTY,

Plaintiff,

v.

O’FALLON POLICE DEPARTMENT, et
al.,

Defendants.

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No. 4:15CV428 RWS

MEMORANDUM AND ORDER

Plaintiff, a prisoner seeking leave to proceed in forma pauperis, brings this action under 42 U.S.C. § 1983. Having reviewed plaintiff’s financial information, the Court assesses a partial initial filing fee of \$1.00. See 28 U.S.C. § 1915(b).

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than “legal conclusions” and “[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a “mere possibility of misconduct.”

Plaintiff alleges that his girlfriend passed the human immunodeficiency virus (“HIV”) on to him. He asserts that this caused him to be depressed and suicidal. He says made suicidal and homicidal statements to a bartender on April 26, 2013, and that the bartender called the police.

The Court takes judicial notice of the state court’s files. On April 26, 2013, plaintiff was arrested for attempting to kill a woman, fleeing from the scene, and leading the police on a high speed vehicle chase. Missouri v. Beatty, No. 1311-CR02574-01 (St. Charles, Mo.) (Probable

Cause Statement, May 2, 2013) (accessed at <https://www.courts.mo.gov/casenet/cases/searchDockets.do>). On February 20, 2014, a jury found him guilty on all counts. The trial judge sentenced him to thirty years' imprisonment. Id. (Judgment).

Plaintiff alleges, in a wholly conclusory manner, that defendants, who were the police officers who arrested him, violated his constitutional rights. As a result, this action fails to state a claim under Iqbal because plaintiff has pled only legal conclusions, and not facts, which if proved, would entitle him to relief. As a result, this action must be dismissed under 28 U.S.C. § 1915(e).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff shall pay an initial filing fee of \$1.00 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that this action is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B).

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 11th day of March, 2015.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE